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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/435,315	11/04/1999	PAUL D. MARKO	XM-0014	5073

7590 08/15/2003

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EXAMINER

LEE, JOHN J

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 08/15/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/435,315

Applicant(s)

MARKO ET AL.

Examiner

JOHN J LEE

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Applicant's arguments with respect to claims 17 - 29 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Objections***

2. Claim 17 is objected to because of the following informalities: the limitation "and/or" claim 17, lines 9 are indefinite because they are not clear as to what is claimed. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. **Claims 17, 19, and 21 – 29** are rejected under 35 U.S.C. 102(e) as being anticipated by Izadpanah et al. (US Patent number 6,560,213).

Regarding **claim 17**, Izadpanah discloses that a satellite digital audio radio multipoint distribution system comprising:

a satellite antenna (4 in Fig. 1) for receiving a satellite digital audio radio signal (Fig. 1 and column 3, lines 6 – 55);

a terrestrial repeater (4, 8 in Fig. 1) connected to said antenna for decoding said satellite signal and recording said signal into an intermediate frequency (IF) satellite radio terrestrial broadcast format signal (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36);

a system for distributing said recoded IF frequency signal, (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36) and

plural satellite digital audio radio service receivers (Fig. 1) adapted to receive said recorded IF signal from said distributing system (4 in Fig. 1) and provide an audio or visual output signal in response thereto (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36).

Regarding **claim 19**, Izadpanah discloses that the format is multi-carrier modulation (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36).

Regarding **claim 21**, Izadpanah discloses that each of said plural receivers includes a respective user interface to allow for channel selection and audio processing (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36).

Regarding **claim 22**, Izadpanah discloses that a channel decoder integrated circuit adapted to receive said recoded signal and provide a digital bitstream output in response thereto (Fig. 1, 4, 6 and column 6, lines 14 – 60).

Regarding **claim 23**, Izadpanah discloses that a source decoder digital signal processor adapted to receive said digital bitstream and provide said output signal in response thereto (Fig. 1, 4, 6 and column 6, lines 14 – 60).

Regarding **claim 24**, Izadpanah discloses that the distribution system is a cable distribution system (Fig. 1, 3 and column 3, lines 31 – column 4, lines 34).

Regarding **claim 25**, Izadpanah discloses that the distribution system is a wireless distribution system (Fig. 1 and column 2, lines 63 – column 3, lines 24).

Regarding **claim 26**, Izadpanah discloses that the distribution system is a fiber-optic distribution system (Fig. 1, 3 and column 3, lines 31 – column 4, lines 34).

Regarding **claim 27**, Izadpanah discloses all the limitation, as discussed in claim 17.

Regarding **claim 28**, Izadpanah discloses all the limitation, as discussed in claim 17.

Regarding **claim 29**, Izadpanah discloses all the limitation, as discussed in claim 17.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 18 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Izadpanah in view of Marko et al. (US Patent number 6,154,452).

Regarding **claim 18**, Izadpanah discloses all the limitation, as discussed in claim 17. However, Izadpanah does not specifically disclose the limitation “the recorded signal is an XM radio terrestrial frequency multi-carrier modulated signal (XM radio format)”. However, Marko discloses the limitation “the recorded signal is an XM radio terrestrial frequency multi-carrier modulated signal (XM radio format)” (Fig. 1, 3, 16, column 7, lines 41 – column 9, lines 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Izadpanah as taught by Marko. The motivation does so would be to improve broadcasting service for signal reception in satellite broadcast system.

Regarding **claim 20**, Izadpanah and Marko disclose all the limitation, as discussed in claims 17 and 18.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stockton et al. (US Patent number 6,243,427) discloses Multichannel Radio Frequency Transmission System to Deliver Wideband Digital Data into Independent Sectorized Service Areas.

Ozkan et al. (US Patent number 6,366,326) discloses System for Acquiring, Processing, and Storing Video Data and Program Guides Transmitted in Defferent Coding Formats.

Tawil et al. (US Patent number 6,519,446) discloses Reusing Satellite Broadcast Spectrum for Terrestrially Broadcast Signals.

Any response to this action should be mailed to:

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or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

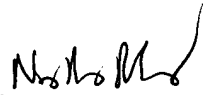
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(703) 306-5936**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00

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pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on (703) 308-7745. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L  
August 1, 2003

John J Lee

  
**NAY MAUNG**  
**PRIMARY EXAMINER**